

NATIONAL RECOVERY ADMINISTRATION

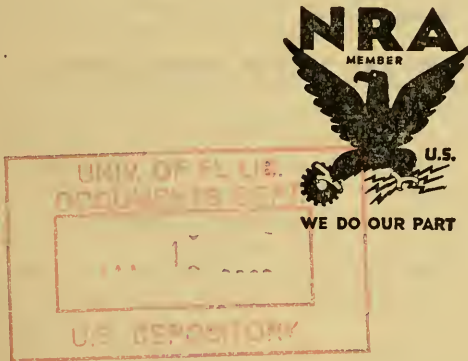
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PROPOSED CODE OF FAIR COMPETITION

FOR THE

HARDWARE AND SUPPLY  
MERCHANTS INDUSTRY

AS SUBMITTED ON AUGUST 31, 1933



The Code for the Hardware and Supply Merchants Industry in its present form merely reflects the proposal of the above-mentioned industry, and *none of the provisions contained therein are to be regarded as having received the approval of the National Recovery Administration as applying to this industry*

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UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1933

SUBMITTED BY  
NATIONAL HARDWARE AND SUPPLY ASSOCIATION  
(II)



## CODE OF FAIR COMPETITION

### SUBMITTED BY NATIONAL HARDWARE & SUPPLY ASSOCIATION

Application to the President of the United States for a Code of Fair Competition for the Hardware and Supply Merchants, under the provisions of Section # 3, Title # 1 of the Act entitled "An Act to Encourage National Industry Recovery, to Foster Fair Competition and to Provide for the Construction of Certain Useful Public Works for Several Purposes."

To effectuate the policy of Title 1 of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Hardware and Supply Merchants.

#### I. LABOR CODE

1. *Collective Bargaining.*—In conformity with the provisions of Section 7a of the National Industrial Recovery Act, the attitude of these Merchants with respect to the labor of employees shall be as follows:

(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his choosing.

(c) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

2. *Child labor.*—On and after the effective date of this Code no person under the age of sixteen years shall be employed, except that persons between fourteen and sixteen may be employed for not to exceed three hours per day, and those hours between 7 a.m. and 7 p.m., in such work as will not interfere with hours of day school.

3. *Maximum hours.*—(a) On and after the effective date of this Code no individual or organization of this class shall work any employee (except executives whose salaries are not less than \$30.00 per week, and except outside salesmen and except maintenance and outside delivery employees, which maintenance and outside delivery employees may be employed forty-eight hours weekly or more, if paid time and one third for all hours over forty-eight hours weekly) for more than forty-four (44) hours per week, excepting at Christmas, inventory, and other peak periods employees may work forty-

eight (48) hours per week for a maximum of not to exceed three weeks in each six months.

It is understood and agreed if any other group of merchants (except food merchants who have been granted 48 hours weekly) are granted hours in excess of these stated above that these same hours will automatically apply to the merchants coming under this Code.

(b) On and after the effective date of this Code no individual or organization of this class shall reduce the hours of any store or service operation to below fifty-two (52) hours in any one (1) week, unless such hours were less than fifty-two (52) hours per week before July 1, 1933, and in the latter case not to reduce such hours at all.

(c) The maximum hours fixed in paragraph 3 (a) shall not apply to employees in towns of less than 10,000 population (when such towns are not part of a larger trade area), in which cases forty-eight (48) hours weekly for all employees is permitted.

4. *Minimum wage.*—On and after the effective date of this Code Merchants shall establish minimum weekly rates of wages for a work week specified in Section 3 (a) as follows:

(a) Within cities of over 500,000 population (by reference to the 1930 Federal census) or in the immediate trade area of such cities at the rate of \$14.00 per week.

(b) Within cities from 100,000 to 500,000 population (by reference to the 1930 Federal census), or in the immediate trade area of such cities at the rate of \$13.00 per week.

(c) Within villages, towns, or cities with a population of 10,000 to 100,000 (by reference to the 1930 Federal census), unless they are included in a trade area as defined by clause (a) or (b), at the rate of \$12.00 per week.

(b) The minimum wages that shall be paid by employers to any of their employees shall be at the rate of \$1.00 per week less in the Southern section of the trade then the rates specified in paragraph (a), (b), and (c) of Section (4).

The South is defined as the following states—Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Kentucky, Maryland, District of Columbia, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, Texas.

(c) In the entire United States, in villages, towns, and cities under 10,000 population (which are not a part of a larger trade area) to increase all wages but not less than 20% provided that this shall not require wages in excess of at the rate of \$11.00 per week nor permit in cities or towns of from 2,500 to 10,000 (which are not a part of a larger trade area) wages less than at the rate of \$10.00 per week.

Except that on and after the effective date of this Code, junior employees between the ages of sixteen and eighteen years, inclusive may be paid at the rate of \$2.00 less for a week work (as provided in section 3 (a)) for the first twelve months of their employment and at the rate of \$1.00 less for the second twelve months of their employment and also except that apprentice employees more than eighteen years of age may be paid at the rate of \$1.00 less for a work week for the first twelve months of their employment, provided that the minimum compensation to either junior or apprentice employees shall not be less than at the rate of \$10.00 per week.

5. Not to reduce the compensation for employment now in excess of the minimum wages hereby agreed to (notwithstanding that the



hours worked in such employment may be hereby reduced) and to increase the pay for such employment by an equitable readjustment of all pay schedules.

6. Not to use an subterfuge to frustrate the spirit and intent of this Code, which is, among other things, to increase employment by a universal covenant, to remove obstructions to commerce, and to shorten hours and to raise wages for the shorter week to a living basis.

7. Not to increase the price of any merchandise sold after the date hereof over the price on July 1, 1933, by more than is made necessary by the actual increases in production, operating, replacement, or invoice costs of merchandise, or by taxes or other costs resulting from action taken pursuant to the Agricultural Adjustment Act, since July 1, 1933, and, in setting such price increases to give full weight to probable increases in sales volume and to refrain from taking profiteering advantage of the consuming public.

8. Where costs of executing contracts entered into before June 16, 1933, in this trade to purchase goods at fixed prices for delivery during the period this Code shall be in effect are increased by the application of the provisions of the National Industrial Recovery Act, and it is deemed equitable and promotive of the purpose of the Act that appropriate adjustments of such contracts to reflect such increased costs be arrived at by arbitral proceedings or otherwise.

9. *Unfair Competition.*—On and after the effective date of this Code—

(a) No individual or organization selling goods at retail shall sell or offer for sale any merchandise at less than the net invoice delivered cost or current market delivered cost, whichever is lower, plus 10% to insure that labor costs shall be at least partially covered.

(b) Nothing in the preceding paragraph, however, shall be interpreted to prevent bona fide seasonal clearances of merchandise so advertised or plainly marked or of highly perishable or damaged goods so advertised or plainly marked nor shall any individual or retail organization for the purpose of a bona fide discontinuance of the handling of any line when so advertised or plainly marked be estopped from selling said merchandise at less than net invoice delivered cost plus 10% to insure that labor costs shall be partially covered.

(c) Advertising (written, printed, radio, or display), which misrepresents merchandise, credit terms, values, policies, or services; or selling methods, which tend to mislead the consumer, shall not be made by any individual or organization selling at retail.

(d) Organizations or individuals selling goods at retail shall be free to advertise truthfully their own goods, policies, services, and their own prices but reference to the goods, policies, services, or prices of competing retailers shall not be made.

(e) No individual or organization selling goods at retail shall make use of, participate in the use of, publish, or broadcast any statement which lays claim to a policy or continuing practice of generally underselling competitors.

(f) On and after the official publication date of this Code no individual, store, or organization selling goods at retail shall buy or contract to buy convict- or prison-made products, nor shall they sell such goods after December 31, 1933.

(g) This Code recognizes that there are many practices which have grown up locally in the retail trade which are productive of unfair competition and which are not dealt with specifically in this Code, for example:

- a. Commercial bribery
- b. Predatory price cutting
- c. Unfair credit practices
- d. Free goods

These and other unfair practices may be made the subject of local regulations not inconsistent with the provisions of this Code to be prepared in each trading area by the Local Retail Trade Committee as provided in paragraph 10 (c). Such local regulations, upon approval by the Local Retail Trade Committee, shall be filed with the National Retail Trade Committee and, when approved by the Administrator, shall, for all purposes within the area for which adopted, have the same force and effect as this Code itself; and any practices deemed unfair under said regulations shall be deemed unfair under this Code. When these and other unfair practices are found to be national in character they may be made the subject of national regulations to be prepared by the National Retail Trade Committee and such regulations upon being approved by the National Retail Trade Committee shall be filed with the Administrator and, when approved by him, shall have the same force and effect as this Code itself; and any practices deemed unfair under said regulation shall be deemed unfair under this Code.

10. *Method of Distribution.*—It is recognized that there is a large class of hardware and supply merchants who are confronted with competition from the jobber, chain and syndicate stores, mail-order houses, department stores, building, mill and factory supply houses, garage and automotive supply houses, and janitor supply houses. Such competitors are in the main privileged to buy at the lowest jobbers' cost.

It is therefore within the scope of this Code that in order to meet such competition and to place the merchandise in the hands of the consuming public at the lowest possible prices, all hardware and supply merchants who are or may become able to order in sufficient quantities shall be entitled to purchase their requirements from the manufacturer at the lowest prices paid by the jobber.

A. Hardware distributing costs of the merchants shall be based as follows:

1. Manufacturer's prices to the jobbers at the lowest distributing price.
2. Manufacturer's prices to the hardware and supply merchants at the lowest distributing price.
3. Prices to the retail dealers by the jobber or manufacturer at a fair mark-up over distributing prices.

In regard to the above it is meant that the distribution shall not handicap the hardware and supply merchant from endeavoring to meet the competition as offered by jobbers, chain and syndicate stores, mail order houses, department stores, building, mill and factory supply houses, garage and automotive supply houses and janitor supply houses.

11. *Administration.*—(a) To effectuate further the policies of the Act, a National Retail Trade Committee is hereby designated to co-operate with the Administrator as a planning and Fair Practice agency for the retail trade. This Committee shall consist of two representatives of each National organization subscribing now or later to this Code, elected by a fair method of selection, to be approved by the Administrator, and three members without vote appointed by the President of the United States. Such agency shall from time to time present to the Administrator recommendations based on conditions in their trade as they may develop from time to time which will tend to effectuate the operation of the provisions of this Code and the policy of the National Industrial Recovery Act.

(b) Such agency is also set up to cooperate with the Administrator in making investigations as to the functioning and observance of any provisions of this Code, at its own instance or on complaint by any person affected, and to report the same to the Administrator.

(c) For each local trading area, as defined by the 1930 Federal census, and for each such other trading district as cannot be included in a trading area thus defined, there shall be set up a Local Retail Trade Committee whose membership shall include not more than two local representatives of each national organization represented on the National Retail Trade Committee and not more than two representatives of each such other division of retailing as may be important locally, all such members to be elected by a fair method of selection. The membership of all Local Retail Trade Committees shall be certified to and subject to approval by the National Retail Trade Committee, and shall report their regulations to it. It shall be the duty and responsibility of such Local Retail Trade Committee to draft such regulations not inconsistent with the provisions of this Code as may be necessary to make the provisions of this Code applicable to the distribution of all merchandise at retail within each respective district, but the essentials set forth in this National Retail Code shall be the minimum to be observed in each locality. The regulations of each such Local Retail Trade Committee shall be drafted and administered without discrimination against any individual retailer or class of retailers so that the spirit of fair and equitable treatment may prevail. Appeal from their decisions may be made to the National Retail Trade Committee.

(d) This Code and all the provisions thereof are expressly made subject to the right of the President in accordance with the provisions of Clause (10) (b) of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation, issued under Title I of said Act, and specifically to the right of the President to cancel or modify his approval of this Code or any condition imposed by him upon his approval thereof.

(e) Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated as changes in the circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code or additional Codes shall be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competition practices and to effectuate the





other purposes and policies of Title I of the National Industrial Recovery Act consistent with the provisions thereof.

(f) It is mutually agreed that if any provision of this Code is modified without the unanimous consent of the National Retail Associations subscribing hereto, then and in that event the entire provisions of this Code may be reopened and a hearing shall be granted within thirty (30) days to any or all of the Associations subscribing hereto.

12. *General Statutory Provisions.*—Nothing in the restraints imposed by this Code is of a discriminatory nature. All restraints proposed in this Code are to protect consumers, competitors, employees, and others and are in the furtherance of the public interest.

No provisions will stifle the initiative of any business conforming to those Fair Competition Practices.

The Associations representing this code imposed no inequitable restrictions on admission to membership in their organization, are truly representative of the Retail Dry Goods, Department, Specialty Shop, Mail Order, Men's Clothing and furnishings, Furniture and Home Furnishings, Hardware and Shoe Store Trades. The Code which they offer is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them.

It is our conviction that this Code will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

13. *Effective Date.*—The effective date of this Code will be one week after its approval by the President.

NATIONAL HARDWARE AND SUPPLY ASSOCIATION.